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(WITNESS EXCUSED)

MR. FUREY: Your honor, we just have
one more witness. Mrs. Schuler is getting
Mr. Schuler.

TODD SCHULER, having been first
cautioned and duly sworn to tell the truth, the
whole truth and nothing but the truth, testified on
direct examination by MR. Furey as follows:

Q. Please state your name, sir.

A. Todd Schuler.

Q. Mr. Schuler, what is your current
employment?

A. I'm a Regional MDU technician for
Heartland.

Q. Okay. Are you responsible for
installation activities?

A. Yes, sir.

1 CROSS EXAMINATION

2 BY MR. KANTOR:

3 Q. This is a representation of one of the
4 lock boxes that are out at the two apartment --
5 three apartment complexes; correct?

6 A. Yes, sir.

7 Q. Do you know what purpose Cox -- why Cox
8 had to open up your lock box?

9 A. Because I had a lock on it.

10 Q. Well, why did they have to do that?

11 A. Well, I had equipment in there that I
12 basically wanted locked, locked up.

13 Q. Isn't it true that the equipment, the drop
14 cable that was going into your box had previously
15 been connected to Cox Cable's lock box and to their
16 customers?

17 A. Yes, sir.

18 Q. And how did your people get into the Cox
19 Cable boxes?

20 A. On the La Place our people cut locks.

21 Q. So the same bolt cutters were used to
22 unlock Cox Cable, right -- I mean not the same --
23 maybe not the same bolt cutter, but the same type of
24 equipment was used?

25 A. Same technique.

1 Q. And at Casa Orlando, how did you get the
2 cables from Cox's box into your box?

3 A. The cables at Casa Orlando were looped
4 into the bottom of the box as a bundle.

5 Q. Kind of like this?

6 A. Yes, pretty much. And we just -- my
7 technicians snipped them.

8 Q. Sliced them like this?

9 A. Yes, sir, cut them.

10 Q. So when you were done, before the
11 temporary restraining order was entered, no Cox
12 customer was receiving Cox service?

13 A. Yes, sir.

14 Q. Were you aware, before you cut their lock
15 and cut their cable, that they claimed ownership of
16 every piece of that distribution system?

17 A. I assumed they claimed ownership to it.

18 Q. You said you saw correspondence. Did you
19 see the correspondence from Mr. Bass and Mr. Kennedy
20 that said that stuff's ours?

21 A. Yes.

22 Q. But you went ahead and cut it anyway;
23 right?

24 A. Yes, sir, because our counsel was -- we
25 were working with our counsel. I was told to cut

1 the wires.

2 Q. Based on what authority did your counsel
3 tell you that you can go ahead and cut their
4 property?

5 A. Well, I'm just an employee, so I have got
6 people that I work for.

7 Q. Did the owners of either of the properties
8 show you any document that showed that they owned
9 those cables and they owned those wires?

10 A. No, sir.

11 Q. Are you aware of any procedure where you
12 can come to court like we are here and get a ruling
13 on who owns those cables before you cut into them?

14 MR. MARTIN: I object to that, your
15 honor. It calls for a conclusion about a matter of
16 law by a nonlawyer.

17 THE COURT: Sustained.

18 MR. KANTOR: I was just asking if he
19 was aware of it, judge.

20 THE COURT: I understand. I still
21 sustain it.

22 Q. (BY MR. KANTOR) Did Heartland conduct any
23 type of study to see if you could postwire those
24 buildings and leave the Cox system alone?

25 A. You know, I did look at that.

1 Q. What was your conclusion?

2 A. My conclusion was that as long as -- as
3 well as my supervisor's conclusion, that the wires
4 most likely were a fixture.

5 Q. I'm sorry, but that's not what I'm
6 asking.

7 A. Okay.

8 Q. Did you take a look at those buildings and
9 see if you could supply your Heartland Wireless
10 service to those tenants without touching any of
11 those cables that were already there?

12 A. Yeah, I looked at it.

13 Q. Could it be done?

14 A. Anything can be done.

15 Q. Do you understand the term postwire in the
16 cable industry? Do you know what a postwire is?

17 A. Is that existing wire?

18 Q. I'm sorry?

19 A. What is it?

20 Q. Postwire is when you come into a building
21 and put wire. After the buildings have already been
22 built, you go in and put wire to connect those
23 tenants?

24 A. Yeah.

25 Q. Could you have done a postwire at those

1 buildings?

2 A. Yes, sir, that could have been possible.

3 Q. So if Cox didn't even have a system there,

4 you could have served those buildings?

5 A. Yes, sir.

6 Q. Any idea how much it would have cost to

7 put your own system there?

8 A. No, sir, I sure don't.

9 Q. Were you present during the time that the

10 transition from Cox to Heartland Wireless occurred?

11 A. Let me think. (Indicating) Yes, sir, I

12 was.

13 MR. KANTOR: That's all, your honor.

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15 THE COURT: Anything else, counsel?

16 MR. FUREY: Just quickly, your

17 honor.

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